

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 766 of 1998

with

MISC.CIVIL APPLICATION No 767 of 1998

with

MISC.CIVIL APPLICATION No 768 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

CHAUDHARI VISHNUBHAI

NATHABHAI

Versus

GSRTC

Appearance:

MR SHAKEEL A QURESHI for Petitioner

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 05/05/98

ORAL JUDGEMENT (Per: B.C.Patel,J)

Rule. Mr.Munsha waives service of Rule.

2. By these applications which are filed under the provisions contained in the Contempt of Courts Act, 1971, the applicants have prayed to initiate action against the respondents for committing breach of the orders passed by the respondents. It appears that the applicants were working as labourers on compassionate grounds in Class-IV category and their request is that they should be absorbed in Class-III category. It appears that, earlier, in view of the ban on recruitment imposed by the Corporation, the appointment could not be made. But after lifting the ban, learned advocate appearing in the matter for the Corporation made a statement that within a reasonable period, applicants will be absorbed as Clerks in Class III services. The court accepted their unconditional apology in view of this.

3. The applicants have made grievance before us that despite the order passed by the Court and the contempt proceedings, even today, the respondents are not complying with the orders. Despite the statement being made before the Court, appointments are not made as Clerks in Class-III category. Mr.Munsha is appearing in the matter as the Court called upon him to appear in the matter in view of the fact that he appeared in the matter earlier and he is a counsel for the Corporation. He pointed out to us that one Manojkumar M. Shah has filed a Special Civil Application No.7368 of 1997 in this Court. He has shown us the order passed by the Court (Coram: N.N.Mathur, J.) dated 15-16/10/97 wherein direction is given that no appointment shall be made in Class-III category on compassionate ground till further orders. The objection which has been referred to hereinabove also pertains to appointment of the petitioners in Class-III post with effect from the date they were appointed as Helpers in Class-IV category from the beginning and to give them all consequential benefits, etc. It is under this circumstances that the respondent Corporation thought that if the Corporation makes the appointment, it would amount to contempt. The respondents were restrained from making appointment on compassionate grounds in Class-III category. The applicants were appointed on compassionate ground and they are seeking benefit on that ground in Class-III. Though they are in Class-IV and in view of this order, if the Corporation has understood to be an order restraining

them from appointing, it cannot be said that it is an intentional breach committed by it. However, considering the facts and circumstances of the case, it would be open for the applicants as well as the respondent to move the learned Single Judge for the appropriate orders.

4. With the above observations, these applications are disposed of. Rule discharged.

radhan/